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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,622	11/28/2000	Irwin J. Singer	KCC-15,287	8443

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EXAMINER

WACHTEL, ALEXIS A

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 08/27/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-5

Office Action Summary

Application No.

09/724,622

Applicant(s)

SINGER ET AL.

Examiner

Alexis Wachtel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3. 6) ☐ Other: _____

Detailed Action

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-26 rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,714,647 to Shipp, Jr. et al and US 5,817,584 to Singer et al.

Shipp, Jr. et al is directed to a filter medium formed by sequentially depositing layers of meltblown thermoplastic fibers having the same composition but different sizes onto a collector. The resulting laminate web has a fiber size gradient so that large particulate can be trapped across the filter's depth without prematurely plugging the fine fiber, high efficiency layers (Abstract). Meltblown webs of microfibers are useful as filter media, absorbent materials, moisture barriers, insulators and wipes (Col 1, lines 32-35). It is known to use fine fibers having a diameter of from 0.5 to 10 microns and larger fibers having a diameter of greater than 10 microns to make a gradient depth filter (Col 2, lines 64-68, Col 3, lines 1-12). Another embodiment contemplates composite webs in which the fiber size gradient may increase or decrease across the full depth of the composite web (Col 7, lines 15-27).

Shipp, Jr. et al fails to teach sandwiching the meltblown web between two spun bond nonwoven webs. Singer et al is directed to nonwovens used as filters (Col 1, lines

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5-10) that have an SMS spunbond/meltblown/spunbond configuration (Col 1, lines 21-25). Examiner notes that the meltblown web in filters is the filtering medium ~~and is~~, and lacks durability without reinforcing means such as afforded by spunbonded webs. In view of this teaching it would have been obvious for one of ordinary skill in the art at the time the invention was made to have employed an SMS construction for reinforcing the meltblown web of Shipp, Jr. et al motivated by the desire to obtain a filter that is durable.

Regarding claims 9,10,12 and 13, although the claimed permeability and opacity are not explicitly taught by Singer et al or EP 0729375 B1, it is reasonable to presume that said limitations would be met by the combination of the two references. Support for said presumption is found in the use of similar materials (i.e. gradient sized meltblown web sandwiched between two spunbonded webs) and in the similar production steps (i.e. laminating spunbond webs to meltblown web) used to produce the SMS composite fabric. The burden is upon the applicant to prove otherwise.

Regarding claims 21-26, Applicant's disclosure discloses that known uses for SMS type laminates include medical gowns, drapes, garments, wraps, shoe covers and towels (Background of Invention, pp.2, Specification). In view of this teaching it would have been obvious for one of ordinary skill in the art at the time the invention was made to have used the SMS composite fabric of Singer et al and EP 0729375 B1 for the disclosed applications. One of ordinary skill in the art would have been motivated by the desire to use the SMS composite fabric in applications for which SMS fabrics are well suited.

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Conclusion

3. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alex Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays-Fridays from 10:30am to 6:30pm.

If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Terrel Morris, can be reached at (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


ELIZABETH M. COLE
PRIMARY EXAMINER